

NCDOT/ACEC/AGC Design-Build Committee

Friday, January 14, 2005 – Meeting Minutes

The meeting was held in Room 117 on the first floor of the Highway building at 1:30 p.m. Attending were:

<u>NAME</u>	<u>REPRESENTING</u>
Debbie Barbour	NCDOT
Steve DeWitt	NCDOT
Ellis Powell	NCDOT
Rodger Rochelle	NCDOT
Berry Jenkins	Carolinas AGC
Fabrice Voisin	Colas
Kathryn Sawyer	ACEC/NC
Jeff Douglas	LPA Group
Tim Keener	URS
Mike Krannitz	Stewart Engineering
Wayne Moody	HDR Engineering
Lisa Robert	Mulkey

The following items were discussed at the meeting and are listed in order of the agenda:

1. Introductions

2. **Update on Current Design-Build Projects Under Construction** - There are five projects in various stages of advertisement. I-2304 is on hold. R-2248F (Charlotte Outer Loop) and U-3101C (US 1/64 Traffic Control Plans) just started and the R-2404A (Windsor Bypass) project was recently awarded.

3. **Future Design-Build Projects** – NCDOT’s funding situation may shift projects into and out of the design-build program. Several projects had been “pulled forward” to assist with project delivery and spending down the cash balances. Some of these may have to be pushed back out. However, the Department is committed to design-build and projects will continue to be delivered using this delivery method.

4. **Design-Build Let List Information** – NCDOT is working toward a goal of updating the design-build let list every 30 days with additional information added. The design-build let list will be like the traditional 12 month let list. NCDOT has also started providing more detailed scope and stipend information as it becomes available. ACEC acknowledged this and thanked NCDOT for the information. Both ACEC and AGC asked to have detailed scopes as early as possible to aid in go/no-go and teaming decisions. The teams need information concerning pavement types, number and sizes of bridges, and rough earthwork volumes.

5. **Update on AASHTO DB Task Force & TRB DB Task Force** – NCDOT is an active member of both of these task forces and is gaining valuable information into what other states are doing with their design-build programs as well as national trends. The AASHTO DB Task Force meets twice yearly, with the next meeting in May in San Diego, and these meetings are open to the public. The task force works on a broad scope of issues as well as specific issues such as right of way and utilities to study past experiences and develop best practices. This information, as well as many other studies dealing with cost estimating and procurement, are available on the ASSHTO website

<http://designbuild.transportation.org/>, and http://designbuild.transportation.org/db_references.html. NCDOT is most interested in several ongoing studies including an FHWA study for Congress on the effectiveness of design-build, a research project on RFP preparation, a research project on design-build environmental compliance, and a study on the best practices for utilities, right of way, and third parties in design build.

Berry Jenkins asked how much of the NCDOT program was expected to go design-build. NCDOT thinks that the current mix and number of projects will stay relatively the same. There are some very positive aspects of design-build that NCDOT is going to try to apply to traditional design-bid-build projects to enhance this type of delivery system by giving more flexibility to the contractor.

The TRB workshop was held January 10-13 and both Steve DeWitt and Rodger Rochelle attended. TRB is focused on best practices for design-build projects, but most of the projects are mega projects that do not interest NCDOT. The theme of this meeting was to allow the contractor more flexibility, which NCDOT is currently working towards with their process.

- 6. Summary of DB Industry Working Group (DBIG) and Potential DB Studies** – ACEC was asked by NCDOT to undertake several studies at the October 15, 2004 meeting. ACEC has outlined the studies and hopes to have the results by March 10, 2005. NCDOT and AGC were provided with information about the studies which is attached to these minutes. NCDOT agreed to provide any comments or items they wanted added to the studies by January 21, 2005. The studies are listed below as well as any discussions surrounding them:

- A. Stipend Study
- B. Design-Build Project Type/ Size Study
- C. Study of information provided in the RFP
- D. Conflict of Interest Study
- E. Construction Engineering & Inspection Study – There are a lot of issues associated with CEI and since no DB project with CEI has been 100% completed yet, there may be additional issues. NCDOT would like to continue to analyze the various approaches to CEI with the intention of improving the teamwork concept allowing a better balance of QC/QA on both DB and design-bid-build projects. AGC stated that NCDOT had been a good partner and that they did not want to see this partnership dissolve as NCDOT takes a less active role. NCDOT asked how it was working to have the CEI as part of the DB team. Wayne Moody and Berry Jenkins responded that the CEI firms past experience is very valuable to the DB team in quick decision making and that the CEI firm becomes part of the solution to problems and that they are also dedicated to maintaining schedule. An example was cited involving undercut where a decision could be made rapidly by the CEI firm as part of the DB team, but might take 5-10 days going through the NCDOT process to get a decision.
- F. Utilities Study

- 7. Open Discussion** – The floor was opened to general comments by the meeting attendees. The following items were discussed:

- A. AGC asked if NCDOT's current level of responsiveness could continue at the same high rate that we have experienced on past projects. NCDOT is expanding the State Alternative Delivery System Group in order to handle the reviews in the same manner as in the past and has no intention of being less responsive. This group expects to perform 70%-90% of the reviews and understands that this is critical to the process.
- B. Mike Krannitz asked if the majority of the companies picking up RFQs were design firms or contractors. NCDOT replied that it was a mixture on most projects with 8-9 design firms and 2-3 contractors on bridge projects.
- C. Berry Jenkins noted that there are some projects that, in the AGC's opinion, are too small for design-build, citing bridge replacements. NCDOT is looking at these projects and may group (and has) several together into a package.
- D. Ellis Powell noted that there has been an interesting trend where DB bridge replacement projects have been coming in under the engineer's estimate, where traditional design-bid-build projects have been coming in over the estimate.
- E. Berry asked if there was resentment among NCDOT staff concerning design-build. Rodger Rochelle responded that they face it every day, but it is mostly from staff who has not been involved in or understands the process. The Operations side of the Department has raised several issues, where most of these employees have not been involved in the program.
- F. The regulatory agencies have been acceptable of the process and this will continue as long as there are no major issues on a project. It is a prerequisite that projects have been through the minimization stage of the merger process before they can go design-build. NCDOT will try to identify projects that will go design build as early as possible.
- G. Mike Krannitz noted that several large projects have been awarded and asked how the quality scoring process was working. NCDOT replied that it seems to be working and also noted that 10 of 13 low bidders also had the highest technical score.
- H. Fabrice Voisin asked about the design-build let list and NCDOT responded that they were trying to get it to be like the traditional let list.
- I. Jeff Douglass asked if NCDOT's intent on nested design-build projects was to advertise these and give more lead-time and NCDOT replied yes.
- J. Lisa Robert asked about NCDOT's role with the toll authority and NCDOT responded that this was not known at this time.
- K. Rodger Rochelle noted that NCDOT will try to get the planning documents, hearing maps, and scopes of the projects out six months prior to advertisement to assist companies in team building/formation.

Following the open discussion, the meeting was adjourned.

ACEC/NC DESIGN BUILD SUBCOMMITTEE

Based on the discussion with NCDOT & AGC, the ACEC/NC was asked to assist with studies in the following areas:

- G. Stipend Study
- H. Design-Build Project Type/ Size Study
- I. Study of information provided in the RFP
- J. Conflict of Interest Study
- K. Construction Engineering & Inspection Study
- L. Utilities Study

The following is our approach to the studies. Please provide any input you may have or any additional items that you want us to consider in the studies.

1. STIPEND STUDY

Objective: Conduct a study to evaluate what other states are doing with respect to stipends for design-build projects and develop hard data to present to NCDOT

Action items:

- ☐ Develop a list of states that are active in D-B

States that may have active D-B programs include:

- North Carolina
- Arizona
- Utah
- Texas
- South Carolina
- Maryland
- Florida
- Washington
- Nevada
- Others?
- Some states have multiple agencies

- ☐ Collect information for the states that are active in D-B

- ☐ Information to be collected includes the following:

- size of project
- scope of project
- stipend policy – distribution & policy
- number of shortlisted firms
- performance

2. DESIGN-BUILD PROJECT TYPE / SIZE STUDY

Objective: Conduct a study to evaluate what type of project should be used in the design-build delivery system

Action items:

- ☐ Identify consultant participants to date (small & large projects).
- ☐ Interview to get input of other firms.
- ☐ Check with other states to see what they are doing.
- ☐ Develop Rec's on size & type based on opinion of member firms

3. STUDY OF INFORMATION PROVIDED IN THE RFP

Objective: Conduct a study to evaluate what information should be included in a design-build Request for Proposal.

Action items:

- ☐ Timing
 - Availability of info at shortlisting
- ☐ Contents
 - Checklists
 - Available/Not available
- ☐ Validity
 - NCDOT ownership/commitment to info (pricing)
- ☐ Access To Info
 - Electronic (CADD Literate)
- ☐ Other States

4. CONFLICT OF INTEREST STUDY

Objective: Conduct a study to determine what constitutes a conflict of interest and an un-fair advantage with respect to a design-builders specific project experience.

Action items:

- ☐ Interview other states with D-B experience (geographical limits?)
- ☐ Study FHWA's Final Rule
- ☐ Look at Case Law
- ☐ Investigate if reauthorization proposes any changes to design-build
- ☐ Gather NCDOT's past history of exclusions

- ☐ Define what an unfair advantage is as defined by the whole ACEC/NCDOT/AGC possible
- ☐ Review potential role of excluded firms for other services
- ☐ Define what constitutes an exclusion
 - Personnel
 - Firm
- ☐ If a firm is given limited exclusion, what written restrictions are understood?

5. CONSTRUCTION ENGINEERING & INSPECTION STUDY

Objective: Conduct a study to determine what is appropriate concerning the business relationship a CE&I firm should have in a design-build project.

Action items:

- ☐ NCDOT may already be in the process of creating contract language for CE&I in design-build projects. Get contract language from Ellis Powell, P.E. (NCDOT State Construction Engineer).
- ☐ Look at other DOT's RFP/RFQ language to see if it addresses CEI role & shut down authority
 - FL
 - KS, MO, TX
 - SC, GA
 - PN, WVA, MD
- ☐ CEI Industry Group to formulate a position or if we prefer CEI as a part of D-B Team and provide to DB Subcommittee Chair

Objective: To provide NCDOT with materials sampling discrepancies with respect to DB projects.

Action items:

- ☐ A formal list of items that there are discrepancies between minimum sampling requirements versus direction being given by the MT lab will be compiled by firms involved with DB and performing CEI work. Examples include cement sampling, department provided portable concrete labs, etc.

6. UTILITIES STUDY

Objective: Conduct a study to determine how to handle utilities, railroads, or other third party entities in a design-build project.

Action items:

- ☐ Owners to not have resources or incentive to respond individually to 3 or 4 different shortlisted teams
- ☐ Each team may have a different solution that affects quantities, price and schedule
- ☐ Owners and railroads will not abide by a 10-day turn around

- ☐ Teams with more knowledge can know too much. Prices are more accurate, but may be higher than “plug” numbers.
- ☐ Prior to issuing RFP, owners, and in most cases, prior rights, can be determined by DOT
- ☐ RFP should recognize possible effects on schedule (hurricanes, ice storms) and price
- ☐ DOT “team” with owners prior to RFP so same info/data can be shared with all shortlisted teams
- ☐ Should some types of projects be avoided (Urban widening vs. rural new location)
- ☐ Solicit suggestions from representative utility owners:
 - Small/large electrical
 - Municipalities
 - Cable/TV/fiber
 - Water & sewer authorities
 - Others: contractors
Railroads
S.U.E. firms

The results of these studies will be presented by the groups performing them at the March 10 DBIG meeting. We will then compile and present to NCDOT & AGC at the NCDOT/ACEC-NC/AGC meeting to be held on April 15, 2005.